

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alfredo Gonzalez	Team: Squad #3	CCRB Case #: 201706871	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 08/20/2017 3:30 PM	Location of Incident: Inside the 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 2/20/2019	EO SOL 2/20/2019	
Date/Time CV Reported Mon, 08/21/2017 3:21 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 08/21/2017 3:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Troy Peacock	00507	940553	073 PCT
2. LT Sean Wick	00000	919862	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Leonard Dyce	24302	915658	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Sean Wick	Abuse: Lieutenant Sean Wick did not process § 87(2)(b)'s complaint regarding an officer.	
B.SGT Troy Peacock	Abuse: Sergeant Troy Peacock did not process § 87(2)(b)'s complaint regarding an officer.	

### Case Summary

§ 87(2)(b) filed this complaint with the CCRB, in person, on August 21, 2017. § 87(2)(b) also filed a complaint via the Call Processing System about the same incident on August 20, 2017, which was processed after § 87(2)(b)'s walk-in complaint.

On August 20, 2017, at approximately 3:30 p.m., § 87(2)(b) went to the 73<sup>rd</sup> Precinct stationhouse in Brooklyn in order to file a complaint against an officer who issued him a summons earlier that day and who he believed racially profiled him. § 87(2)(b) spoke to PO Leonard Dyce and informed him that he wanted to file a complaint against an officer. PO Dyce told § 87(2)(b) that he did not process civilian complaints against officers and to wait to speak to a supervisor. As § 87(2)(b) waited, he spoke to Lieutenant Sean Wick outside, in the stationhouse's parking lot, and informed him that he wanted to file a complaint against an officer, but Lieutenant Wick allegedly told him that he did not take complaints and directed him to speak to someone at the desk (**Allegation A**). Eventually, § 87(2)(b) spoke to Sgt. Troy Peacock and informed him of his complaint. Sgt. Peacock allegedly told § 87(2)(b) that the incident he described did not constitute racial profiling and that the officer issued him a summons because of an observed violation. § 87(2)(b) re-stated that he wanted to file a complaint against the officer, to which Sgt. Peacock allegedly responded, "If you still want to file a complaint, that's the number you need to call," and subsequently pointed to the CCRB's number that was posted on the wall (**Allegation B**). § 87(2)(b) left the stationhouse without having filed his complaint. No arrests or summonses resulted from this incident.

No video footage was found that captured this incident.

### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to participate in mediation because he did not believe that Sgt. Peacock would participate in good faith.
- As of September 29, 2017, § 87(2)(b) has not filed a Notice of Claim against the City of New York (BR 01).
- § 87(2)(b); §§ 86(1)(3)(4); § 87(2)(c)

### Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (BR 03).
- Lieutenant Wick has been a member of the NYPD for 20 years. He has been the subject of two previous allegations stemming from two cases, none of which were substantiated or § 87(2)(g)
- Sgt. Peacock has been a member of the NYPD for 11 years. He has been the subject of nine previous allegations stemming from six cases, with no substantiated allegations and § 87(2)(g), § 87(4-b) (b)

## **Findings and Recommendations**

### **Explanation of Subject Officer Identification**

- PO Dyce, who was identified by § 87(2)(b) via his name, identified Sgt. Peacock and Lieutenant Wick as the supervisors that § 87(2)(b) spoke to regarding his complaint. Therefore, the refusal to process a civilian complaint allegation has been pleaded against both Lieutenant Wick and Sgt. Peacock.

**Allegation A – Abuse of Authority: Lieutenant Sean Wick did not process § 87(2)(b) s complaint regarding an officer.**

**Allegation B – Abuse of Authority: Sergeant Troy Peacock did not process § 87(2)(b) s complaint regarding an officer.**

It is undisputed that Lieutenant Wick and Sgt. Peacock did not file a complaint on behalf of § 87(2)(b)

§ 87(2)(b) stated that he entered the 73<sup>rd</sup> Precinct stationhouse and spoke with PO Dyce and informed him that he wanted to file a complaint against an officer who had issued him a summons, explaining that he felt that he was racially profiled. PO Dyce told § 87(2)(b) that the officer's action was not racial profiling, and that he had simply issued the summons because he had observed § 87(2)(b) commit a traffic infraction. § 87(2)(b) denied committing a violation, stated that he was very upset about the incident, and reiterated that he wanted to file a complaint against the officer. PO Dyce told § 87(2)(b) to wait for a supervisor to speak with him. After approximately one hour, § 87(2)(b) asked PO Dyce for an update regarding his complaint, and PO Dyce pointed out Lieutenant Wick, who was exiting the stationhouse at the time, and told § 87(2)(b) to speak to him. § 87(2)(b) followed Lieutenant Wick out into the parking lot and informed him that he wanted to file a complaint against an officer because of the summons. Lieutenant Wick informed him that he did not take complaints and instructed him to speak to someone at the desk. § 87(2)(b) returned and informed PO Dyce of what Lieutenant Wick had said, after which PO Dyce left his desk and went to speak to an officer. Approximately five minutes later, Sgt. Peacock came to the waiting room and § 87(2)(b) stated that he wanted to file a complaint against an officer, reiterating his complaint as he stated it to PO Dyce. Sgt. Peacock stated that the scenario he was describing was not racial profiling and that the officer issued him the summons due to an observed violation. § 87(2)(b) reiterated that he wanted to file a complaint, and stated that he believed he was racially profiled because the officer followed him after they made eye contact and not because of any wrongdoing. Sgt. Peacock then allegedly stated, "If you still want to file a complaint, that's the number you need to call," and subsequently pointed to the CCRB's number posted on the wall. Sgt. Peacock then walked away. § 87(2)(b) noted the CCRB's number and left the stationhouse (BR 04).

PO Dyce stated that after § 87(2)(b) told him that he wanted to file a complaint against an officer, he informed § 87(2)(b) that he does not process civilian complaints against officers and told him that he needed to speak with a supervisor, or that he could contact the CCRB to file his complaint. § 87(2)(b) did not tell PO Dyce what his complaint was about. To PO Dyce's knowledge, processing civilian complaints against officers is not part of his assignment as the officer at the window, and only a supervisor can process a civilian complaint. § 87(2)(b) then requested to speak with a supervisor. PO Dyce recalled that as Lieutenant Wick was exiting the stationhouse, he informed § 87(2)(b) that Lieutenant Wick was a supervisor and stated to § 87(2)(b) "So if you want to talk to him, you can go right ahead." Afterward, § 87(2)(b) followed

Lieutenant Wick out of the stationhouse. Lieutenant Wick and § 87(2)(b) were outside, so PO Dyce was unable to observe or hear their interaction. § 87(2)(b) returned after two minutes. PO Dyce then spoke with Sgt. Peacock and informed him about § 87(2)(b). Sgt. Peacock came out to the waiting area and spoke with § 87(2)(b). PO Dyce did not hear the conversation between § 87(2)(b) and Sgt. Peacock. When asked whether the stationhouse had any posters on the wall with information for the CCRB, PO Dyce answered affirmatively and stated that there was a plaque on the wall with the CCRB's information. When asked if he ever saw Sgt. Peacock point to the CCRB's information, PO Dyce answered affirmatively. PO Dyce interpreted Sgt. Peacock's action as an attempt to inform § 87(2)(b) of the CCRB. When asked how § 87(2)(b) reacted to Sgt. Peacock's action, PO Dyce stated § 87(2)(b) "just looked up" at it. PO Dyce did not observe § 87(2)(b) write down any information. PO Dyce did not know if § 87(2)(b) was formally interviewed by Sgt. Peacock. PO Dyce did not know if Sgt. Peacock filed a complaint for § 87(2)(b). PO Dyce did not hear any officer state to § 87(2)(b) that he would not file a complaint for him, and § 87(2)(b) did not complain that an officer was refusing to file a complaint for him (BR 06).

Sgt. Peacock stated that he was inside the 73<sup>rd</sup> Precinct stationhouse when he was asked by PO Dyce to speak to § 87(2)(b). Sgt. Peacock recalled speaking with § 87(2)(b) in the lobby and stated that § 87(2)(b) informed him that he had received a summons for a moving violation. § 87(2)(b) did not make any allegations against an officer that were related to derogatory statements, to the use of physical force, or any sort of police misconduct; § 87(2)(b)'s complaint was simply that he was pulled over and issued a summons. Sgt. Peacock advised § 87(2)(b) to go to traffic court if he wanted to dispute the summons. When asked if § 87(2)(b) mentioned that he felt that he was racially profiled, Sgt. Peacock stated that he did not remember. Sgt. Peacock confirmed that the CCRB's information is posted inside of the stationhouse. When asked if he ever suggested to § 87(2)(b) that he could file a complaint with the CCRB or pointed to the CCRB's posted information, Sgt. Peacock stated that he did not recall. Sgt. Peacock stated that a complaint would only be filed in the stationhouse if there were allegations of some type of verbal abuse or derogatory comments that stemmed from the summons, but not solely for a summons dispute. When asked if he offered this explanation to § 87(2)(b), Sgt. Peacock answered affirmatively. When asked if § 87(2)(b) ever insisted on filing a complaint after being informed that he could dispute his summons in traffic court, Sgt. Peacock stated that he did not recall. When asked if § 87(2)(b) ever requested to file a complaint against an officer, Sgt. Peacock stated that he did not recall. When asked if § 87(2)(b) was offered a complaint form, Sgt. Peacock stated that he was not (BR 05).

Lieutenant Wick did not have any recollection of this incident and he denied refusing to file a complaint against an officer for a civilian. Lieutenant Wick confirmed that complaints of racial profiling or complaints regarding a summons would be filed with a supervisor – likely whichever supervisor is assigned to the desk – but he noted that any supervisor could process the complaint. Lieutenant Wick also stated that civilian complaints against officers always have to be processed by supervisors. When asked if this procedure was specific to his precinct or to the NYPD, Lieutenant Wick stated that the procedure is in the NYPD Patrol Guide. Lieutenant Wick added that, had § 87(2)(b) or any civilian, informed him that officers were refusing to process his complaint, he would have taken the complaint himself and he would have dealt with the supervisor that had refused to file the complaint (BR 08).

Lieutenant Wick's memo book noted that he went on patrol to conduct overtime work for Vision Zero at 4:34 p.m. That time falls within the window of § 87(2)(b)'s time at the stationhouse (BR 09).

When a member of the service receives a complaint against an officer in person, the member of the service is to interview the complainant, give them a copy of the Civilian Complaint Report to prepare in their own handwriting, and report the complaint to the CCRB immediately. Complaints against uniformed members alleging other acts of misconduct, i.e. failing to properly perform duty, unwarranted traffic summons, etc., will be directed to the Civilian Complaint Review Board, Intake Unit, and be assigned a Chief of Department serial number. NYPD Patrol Guide, section 207-31 (BR 07).

§ 87(2)(g)

[REDACTED]

[REDACTED]

Squad: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print	Date

Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date